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Attorneys for Cheeseman Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ASSOCIATION OF NEW JERSEY
RIFLE & PISTOL CLUBS, INC., et al,

Plaintiffs,

v.

MATTHEW J. PLATKIN, in his official
capacity as Acting Attorney General of
New Jersey, et al,

Defendants.

Civil Action No. 3:18-cv-10507-PGS-
LHG

MARK CHEESEMAM, et al,

Plaintiffs,

v.

MATTHEW J. PLATKIN, in his official
capacity as Acting Attorney General of
New Jersey, et al,

Defendants.

Civil Action No. 1:22-cv-04360-PGS-
LHG

**Declaration in Support of Exhibits to
Cheeseman Plaintiffs' Combined
Brief in Opposition to State
Defendants' Cross-Motion for
Summary Judgment and Reply to
State Defendants' Opposition to
Cheesman Plaintiffs' Motion for
Summary Judgment**

BLAKE ELLMAN et al,

Plaintiffs,

v.

MATTHEW J. PLATKIN, in his official
capacity as Acting Attorney General of
New Jersey, et al,

Defendants.

Civil Action No. 3:22-cv-04397-PGS-
LHG

DECLARATION OF BRADLEY P. LEHMAN

I, Bradley P. Lehman, being of full age, hereby declare as follows:

1. I am licensed to practice law in the State of New Jersey and before the United States District Court for the District of New Jersey. I am employed as an attorney at the law firm of Gellert Scali Busenkell & Brown, LLC and, in that capacity, I represent the *Cheeseman* Plaintiffs in the above-captioned matter.

2. I am fully familiar with the facts to which I now certify.

3. This Declaration is submitted in support of the *Cheeseman* Plaintiffs' Combined Brief in Opposition to State Defendants' Cross-Motion for Summary Judgment and Reply to State Defendants' Opposition to the *Cheeseman* Plaintiffs' Motion for Summary Judgment (Dkt. No. 174).

4. Attached as **Exhibit 1** is a true and accurate copy of David B. Kopel, *Rational Basis Analysis of "Assault Weapon" Prohibition*, 20 J. Contemp. L. 381 (1994).

5. Attached as **Exhibit 2** is a true and accurate copy of Stephen P. Halbrook, *America's Rifle: The Case for the AR-15* 313 (2022).

6. Attached as **Exhibit 3** is a true and accurate copy of E. Gregory Wallace, *"Assault Weapon" Lethality*, 88 Tenn. L. Rev. 1 (2020).

7. Attached as **Exhibit 4** is a true and accurate copy of E. Gregory Wallace, *"Assault Weapon" Myths*, 43 S. Ill. U. L.J. 193 (2018).

8. Attached as **Exhibit 5** is a true and accurate copy of U.S. Dep't of Def.: Advanced Rsch. Projects Agency, *Rep. of Task No. 13A: Test of Armalite Rifle, AR-15 (U)* (Aug. 20, 1962).

9. Attached as **Exhibit 6** is a true and accurate copy of Dennis P. Chapman, *The AR-15 Controversy: Semiautomatic Rifles and the Second Amendment* 38 (2d ed. 2022).

10. Attached as **Exhibit 7** is a true and accurate copy of William English, *2021 National Firearms Survey: Updated Analysis Including Types of Firearms Owned*, Geo. Univ. (May 13, 2022).

11. Attached as **Exhibit 8** is a true and accurate copy of *Poll of current gun owners*, Wash. Post-Ipsos (Mar. 27, 2023).

12. Attached as **Exhibit 9** is a true and accurate copy of *Modern Sporting Rifle: Comprehensive Consumer Report*, Nat'l Shooting Sports Found., Inc. (July 14, 2022).

13. Attached as **Exhibit 10** is a true and accurate copy of *Sport Shooting Participation in the U.S. in 2020*, Nat'l Shooting Sports Found., Inc. (2021).

14. Attached as **Exhibit 11** is a true and accurate copy of Frank Miniter, *The Future of The Gun* (2014).

15. Attached as **Exhibit 12** is a true and accurate copy of Stefania Okolie, *5 Shot and 3 Killed After Homeowner Opens Fire on Suspects in East Houston*, ABC13 (Jan. 20, 2019).

16. Attached as **Exhibit 13** is a true and accurate copy of Joe Tacopino, *Pregnant Florida mom uses AR-15 to kill home intruder*, N.Y. Post (Nov. 4, 2019).

17. Attached as **Exhibit 14** is a true and accurate copy of *Santa Monica Owner Protects His Store With Guns Amid Looting*, CBS L.A. (June 1, 2020).

18. Attached as **Exhibit 15** is a true and accurate copy of Austin L. Miller, *MCSO: 2 of 4 intruders dead, homeowner injured in home invasion*, Ocala StarBanner (July 10, 2019).

19. Attached as **Exhibit 16** is a true and accurate copy of Hannah Leone, *Gun instructor uses AR-15 to stop attacker in Oswego: "He was half a breath away from getting his head blown off,"* Chi. Trib. (Mar. 1, 2018).

20. Attached as **Exhibit 17** is a true and accurate copy of *Homeowner's son shoots, kills three would-be burglars*, FOX News (Mar. 27, 2017).

21. Attached as **Exhibit 18** is a true and accurate copy of David Kopel, *Fast Reloading of Guns in the 19th Century*, Reason (Jun. 5, 2023).

22. Attached as **Exhibit 19** is a true and accurate copy of David B. Kopel, *The History of Firearm Magazines and Magazine Prohibitions*, 78 Alb. L. Rev. 849 (2015).

23. Attached as **Exhibit 20** is a true and accurate copy of David B. Kopel, *Firearms technology and the original meaning of the Second Amendment*, Wash. Post (Apr. 3, 2017).

24. Attached as **Exhibit 21** is a true and accurate copy of Patrick Roberts, *The History of Henry*, Gun Digest (Aug. 26, 2022).

25. Attached as **Exhibit 22** is a true and accurate copy of *Letter from Joseph Belton to the Continental Congress* (Apr. 11, 1777).

26. Attached as **Exhibit 23** is a true and accurate copy of Ian McCollum, *Chambers Flintlock Machine Gun from the 1700s*, Forgotten Weapons (Nov. 8, 2019).

27. Attached as **Exhibit 24** is a true and accurate copy of Andrew Fagal, *The Promise of American Repeating Weapons, 1791-1821*, Age Of Revolutions (Oct. 20, 2016).

28. Attached as **Exhibit 25** is a true and accurate copy of *Newly Invented Muskets*, N.Y. Evening Post, Apr. 10, 1822, in 59 Alexander Tilloch, *The Phil. Mag. And J. Comprehending The Various Branches Of Science, The Liberal And Fine Arts, Geology, Agric., Mfrs, And Com.* (1822).

29. Attached as **Exhibit 26** is a true and accurate copy of Frederick J. Chiaventone, *The Girandoni Air Rifle: The Lewis and Clark Expedition's Secret Weapon*, Warfare Hist. Network (Jan. 2013).

30. Attached as **Exhibit 27** is a true and accurate copy of James B. Garry, *Weapons Of The Lewis And Clark Expedition* (2012).

31. Attached as **Exhibit 28** is a true and accurate copy of David Kopel, *The Founders were well aware of continuing advances in arms technology*, Reason (May 26, 2023).

32. Attached as **Exhibit 29** is a true and accurate copy of Christopher Bartocci, *AR-15/M16: The Rifle That Was Never Supposed to Be*, Gun Digest (July 16, 2012).

33. Attached as **Exhibit 30** is a true and accurate copy of The Militia Act of 1792, Act of May 8, 1792, ch. 33, 1 Stat. 271 § 1.

34. Attached as **Exhibit 31** is a true and accurate copy of *U.S. Springfield Model 1795 Flintlock Musket Type I*, NRA Museums.

35. Attached as **Exhibit 32** is a true and accurate copy of Dennis Adler, *The Interesting History of Remington Revolvers From the 1850s-1870s*, Athlon Outdoors (Jan. 29, 2022).

36. Attached as **Exhibit 33** is a true and accurate copy of Richard C. Rattenbury, *Colt Revolvers*, TSHA (Oct. 2, 2019).

37. Attached as **Exhibit 34** is a true and accurate copy of Norm Flayderman, *Flayderman's Guide to Antique American Firearms And Their Values* (9th ed. 2007).

38. Attached as **Exhibit 35** is a true and accurate copy of Harold F. Williamson, *Winchester: The Gun That Won The West* (1952).

39. Attached as **Exhibit 36** is a true and accurate copy of *Gun Timeline*, PBS

40. Attached as **Exhibit 37** is a true and accurate copy of 1959 Mich. Pub. Acts.

41. Attached as **Exhibit 38** is a true and accurate copy of 1959 R.I. Acts & Resolves.

42. Attached as **Exhibit 39** is a true and accurate copy of 1963 Minn. Sess. L. ch. 753,1229.

43. Attached as **Exhibit 40** is a true and accurate copy of 1975 Va. Acts, ch. 14.

44. Attached as **Exhibit 41** is a true and accurate copy of Robert C. Kennedy, *How to Escape the Draft*, N.Y. Times: Archive (Aug. 1, 1863).

45. Attached as **Exhibit 42** is a true and accurate copy of Dave Campbell, *A Look Back at the Thompson Submachine Gun*, NRA (Apr. 17, 2019).

46. Attached as **Exhibit 43** is a true and accurate copy of NSSF Fast Facts, *Background Information On So-Called "Assault Weapons,"* Nat'l Shooting Sports Found., Inc. (May 2022).

47. Attached as **Exhibit 44** is a true and accurate copy of *Rifle Marksmanship: M16-/M4-Series Weapons*, Dep't of the Army (Aug. 2008).

48. Attached as **Exhibit 45** is a true and accurate copy of Bureau of Alcohol, Tobacco, and Firearms, *"Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles"* (Jul. 6, 1989).

49. Attached as **Exhibit 46** is a true and accurate copy of Christopher S. Koper, *Assessing the potential to reduce deaths and injuries from mass shootings through restrictions on assault weapons and other high-capacity semiautomatic firearms*, 19 Crim’y & Pub. Pol’y 147 (2020).

50. Attached as **Exhibit 47** is a true and accurate copy of Vincent J.M. DiMaio, *Gunshot Wounds: Practical Aspects of Firearms, Ballistics, and Forensic Techniques* (2d ed. 1999).

51. Attached as **Exhibit 48** is a true and accurate copy of Kopel, *How powerful are AR rifles?*, Reason (Feb. 27, 2023).

52. Attached as **Exhibit 49** is a true and accurate copy of Anthony F. Milavic, *It’s the Cartridge, Stupid—Not the Rifle* (Aug. 2002).

53. Attached as **Exhibit 50** is a true and accurate copy of *The AR-10 Story*, NRA-ILA (Oct. 2, 2018).

54. Attached as **Exhibit 51** is a true and accurate copy of *M16 rifle*, Encyclopedia Britannica.

55. Attached as **Exhibit 52** is a true and accurate copy of *The Truth About So-Called “Assault Weapons,”* NRA-ILA.

56. Attached as **Exhibit 53** is a true and accurate copy of *Modern Sporting Rifle Owners Are Most Active Shooters, Says NSSF/Responsive Management Survey*, Nat’l Shooting Sports Found., Inc. (Apr. 19, 2010).

57. Attached as **Exhibit 54** is a true and accurate copy of Gary Kleck, *Large-Capacity Magazines and the Casualty Counts in Mass Shootings: The Plausibility of Linkages*, 17 J. Res. & Pol'y 28 (2016).

58. Attached as **Exhibit 55** is a true and accurate copy of Craig Riesch, *U.S. M1 Carbines, Wartime Production* (8th ed. 2019).

59. Attached as **Exhibit 56** is a true and accurate copy of *CMP gets M1 Carbines (that you can order, right now)*, TFB (Feb. 1, 2016).

60. Attached as **Exhibit 57** is a true and accurate copy of *Post WWII Commercially Manufactured M1 Carbines*, M1 Carbines Incorporated.

61. Attached as **Exhibit 58** is a true and accurate copy of Michael, *Browning Hi-Power*, Lynx Defense.

62. Attached as **Exhibit 59** is a true and accurate copy of Joseph W. Galvin et al., *Rate and time to return to shooting following arthroscopic and open shoulder surgery*, 6 JSES Int'l 963 (2022).

63. Attached as **Exhibit 60** is a true and accurate copy of Richard A. Mann, *The .223 Family Tree*, Gun Digest (June 3, 2022).

64. Attached as **Exhibit 61** is a true and accurate copy of Charles Winthrop Sawyer, *Firearms In American History* 81(1910).

65. Attached as **Exhibit 62** is a true and accurate copy of *History Of Bucks County, Pennsylvania* 220 (1887).

66. Attached as **Exhibit 63** is a true and accurate copy of *Tales from the 1769 Vansant/Craven Burying Ground*, 19 The Craven Hall Newsletter (Craven Hall Historical Society, Warminster, Pa.), Mar. 2021.

67. Attached as **Exhibit 64** is a true and accurate copy of Juan Pablo Herrera-Escobar et al., *Patient-reported Outcomes at 6 to 12 Months Among Survivors of Firearm Injury in the United States*, 274 Annals of Surgery (2021).

68. Attached as **Exhibit 65** is a true and accurate copy of *Expanded Homicide Data Table 8: Murder Victims by Weapon, 2015–2019, Crime in the United States*, FBI, U.S. Dep’t of Just. (2019).

69. Attached as **Exhibit 66** is a true and accurate copy of Jacob Sullum, *Neither ‘Capacity’ Nor ‘Power’ Distinguishes ‘Assault Weapons’ From Other Firearms*, Reason (Oct. 31, 2018).

70. Attached as **Exhibit 67** is a true and accurate copy of Martin L. Fackler, *28 Gunshot Wound Review*, Annals of Emergency Med. 194 (Aug. 1996).

71. Attached as **Exhibit 68** is a true and accurate copy of Dennis P. Chapman, *Firearms Chimera: The Counter Productive Campaign to Ban the AR-15 Rifle*, 8 Belmont L. Rev. 191 (2020).

72. Attached as **Exhibit 69** is a true and accurate copy of Randolph Roth, *American Homicide* (2012).

73. Attached as **Exhibit 70** is a true and accurate copy of Judge Edward Scott, *Laws of the State of Tennessee: Including Those of North Carolina Now in Force in this State: From the Year 1715 to the Year 1820*, pg. 710, Image 714 (Vol. 1, 1821).

74. Attached as **Exhibit 71** is a true and accurate copy of Stephen P. Halbrook, *Faux Histoire of the Right to Bear Arms: Young v. Hawaii* (9th Cir. 2021).

75. Attached as **Exhibit 72** is a true and accurate copy of 1763–1775 N.J. Laws 346, ch. 539 § 10 (1771).

76. Attached as **Exhibit 73** is a true and accurate copy of 1859 Ind. Acts. 129.

77. Attached as **Exhibit 74** is a true and accurate copy of Nashville, Tenn., Ordinances, pt. 3, tit. 12, ch. 108, §§ 1–6, in William King McAlister Jr., *Ordinances of the City of Nashville, to Which are Prefixed the State Laws Chartering and Relating to the City* 340–41 (1881) (Nashville).

78. Attached as **Exhibit 75** is a true and accurate copy of Nashville, Tenn., Ordinance, § 738, in Claude Waller, *Digest of the Ordinances of the City of Nashville, to Which are Prefixed the State Laws Incorporating, and Relating to, the City* 364–65 (1893) (Nashville).

79. Attached as **Exhibit 76** is a true and accurate copy of *Revised Ordinances of Provo City, Containing All The Ordinances In Force* 105 (1877) (Provo).

80. Attached as **Exhibit 77** is a true and accurate copy of 1889 Ariz. Sess. Laws 16.

81. Attached as **Exhibit 78** is a true and accurate copy of 1890 Okla. Laws 495.

82. Attached as **Exhibit 79** is a true and accurate copy of 1872 Md. Laws 57.

83. Attached as **Exhibit 80** is a true and accurate copy of Kopel, *The legal history of bans on firearms and Bowie knives before 1900*, Reason (Nov. 20, 2022).

84. Attached as **Exhibit 81** is a true and accurate copy of 1860 Ga. Laws 56 § 1.

85. Attached as **Exhibit 82** is a true and accurate copy of Mark W. Smith, *“Not all History is Created Equal”: In the Post-Bruen World, the Critical Period for Historical Analogues is when the Second Amendment was Ratified in 1791, and not 1868*, Harv. J. of L. & Pub. Pol’y Per Curiam (Oct. 1, 2022).

86. Attached as **Exhibit 83** is a true and accurate copy of Saul Cornell, *Cherry-picked history and ideology-driven outcomes: Bruen’s originalist distortions*, SCOTUS Blog.

87. Attached as **Exhibit 84** is a true and accurate copy of Cornell Rpt. at 40 n.140. One of the articles, Mark Anthony Frassetto, *The Law and Politics of Firearms Regulation in Reconstruction Texas*, 4 Tex. A&M L. Rev. 95 (2016).

88. Attached as **Exhibit 85** is a true and accurate copy of 1927 Cal. Stat. 938.

89. Attached as **Exhibit 86** is a true and accurate copy of 1929 Mo. Laws 170.

90. Attached as **Exhibit 87** is a true and accurate copy of 1933 Wash. Sess. Laws 335.

91. Attached as **Exhibit 88** is a true and accurate copy of 1933 S.D. Sess. Laws 245–47.

92. Attached as **Exhibit 89** is a true and accurate copy of 1934 Va. Acts 137–39.

93. Attached as **Exhibit 90** is a true and accurate copy of 1927 Mass. Acts 416.

94. Attached as **Exhibit 91** is a true and accurate copy of 1933 Cal. Stat. 1169.

95. Attached as **Exhibit 92** is a true and accurate copy of 1920 N.J. Laws 67, ch. 31, § 9.

96. Attached as **Exhibit 93** is a true and accurate copy of 1917 N.C. Sess. Laws 390, ch. 209, § 1.

97. Attached as **Exhibit 94** is a true and accurate copy of 1933 Minn. Laws ch. 190.

98. Attached as **Exhibit 95** is a true and accurate copy of 1932, Public-No. 275-72D (District of Columbia).

99. Attached as **Exhibit 96** is a true and accurate copy of 1927 Mich. Pub. Acts 888–89.

100. Attached as **Exhibit 97** is a true and accurate copy of 1927 R.I. Pub Laws 256.

101. Attached as **Exhibit 98** is a true and accurate copy of Resp. to Statement 82; 52 Stat. 1250 (1938).

102. Attached as **Exhibit 99** is a true and accurate copy of National Firearms Act, Pub. L. No. 73-474, 48 Stat. 1236 (1934).

103. Attached as **Exhibit 100** is a true and accurate copy of Kopel, *The History of Firearm Magazines and Magazine Prohibitions*, 78 Alb. L. Rev. 849 (2015).

104. Attached as **Exhibit 101** is a true and accurate copy of *Crime in the United States by Volume and Rate per 100,000 Inhabitants, 2000–2019 Table 1*, FBI, U.S. Dep’t of Just. (2019).

105. Attached as **Exhibit 102** is a true and accurate copy of Randolph Roth, *American Homicide Supplemental Volume: Weapons* (Oct. 2009).

106. Attached as **Exhibit 103** is a true and accurate copy of Joseph G.S. Greenlee, *The Right to Train: A Pillar of the Second Amendment*, 31 Wm. & Mary Bill Rts. J. 93 (2022).

107. Attached as **Exhibit 104** is a true and accurate copy of Rosanna Smart & Terry L. Schell, *Mass Shootings in the United States*, RAND Corp. (Apr. 15, 2021).

108. Attached as **Exhibit 105** is a true and accurate copy of *Effects of Assault Weapon and High-Capacity Magazine Bans on Mass Shootings*, Rand Corp. (Jan. 10, 2023).

109. Attached as **Exhibit 106** is a true and accurate copy of Benjamin M. Blau et al., *Guns, laws and public shootings in the United States* at 2, Applied Econ. (2016).

110. Attached as **Exhibit 107** is a true and accurate copy of Daniel W. Webster et al., *Evidence concerning the regulation of firearms design, sale, and carrying on fatal mass shootings in the United States*, 19 Criminology & Pub. Pol'y 171 (2020).

111. Attached as **Exhibit 108** is a true and accurate copy of James Alan Fox & Monica DeLateur, *Mass Shootings in America: Moving Beyond Newton*, 18 Homicide Studies 125 (2014).

112. Attached as **Exhibit 109** is a true and accurate copy of *Expanded Homicide Data Table 8: Murder Victims by Weapon, 2014–2018*, Crime in the United States, FBI, U.S. Dep’t of Just. (2018).

113. Attached as **Exhibit 110** is a true and accurate copy of Sarah Kollmorgen, *Chicago Criminals’ Favorite Gunmakers: A Visual Ranking*, The Trace (Jan. 6, 2016).

114. Attached as **Exhibit 111** is a true and accurate copy of William J. Krouse et al., Cong. Rsch. Serv., R44126, *Mass Murder with Firearms: Incidents and Victims, 1999–2013* (2015).

115. Attached as **Exhibit 112** is a true and accurate copy of Gary Kleck, *Targeting Guns: Firearms and their Control* 112 (1997).

116. Attached as **Exhibit 113** is a true and accurate copy of Mariel Alper & Lauren Glaze, *Source and Uses of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*, U.S. Dep’t of Just., Off. of Just. Progs., Bureau of Just. Stats. (Jan. 2019), at 5 tbl. 3.

117. Attached as **Exhibit 114** is a true and accurate copy of Christopher S. Koper et al., *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994–2003*, U.S. Dep’t of Just. (June 2004).

118. Attached as **Exhibit 115** is a true and accurate copy of Marianne W. Zawitz, *Guns Used in Crime*, U.S. Dep’t of Just., Bureau of Just. Stat. (July 1995).

119. Attached as **Exhibit 116** is a true and accurate copy of *2021 Firearms Retailer Survey Report*, Nat’l Shooting Sports Found., Inc. (2021).

120. Attached as **Exhibit 117** is a true and accurate copy of Amy E. Swearer, *If You Can’t Beat ’Em, Lie About ’Em: How Gun Control Advocates Twist Heritage’s Defensive Gun Use Database in the “Large-Capacity” Magazine Debate*, Heritage Found. (May 17, 2023), at app’x tbl. 1.

121. Attached as **Exhibit 118** a true and accurate copy of Mark W. Smith & Dan M. Peterson, *Big Data Comes for Textualism: The Use and Abuse of Corpus Linguistics in Second Amendment Litigation*, 70 Drake L. Rev. 387 (2022).

122. Attached as **Exhibit 119** is a true and accurate copy of Don Troiani, *Don Troiani’s Soldiers of the American Revolution 4* (1st ed. 2007).

123. Attached as **Exhibit 120** is a true and accurate copy of Ian McCollum, *Forgotten Weapons: The Mitraillease*, Popular Mechs. (Dec. 9, 2015).

124. Attached as **Exhibit 121** is a true and accurate copy of Paul Wahl & Donald R. Toppel, *The Gatling Gun* 43 (1965).

125. Attached as **Exhibit 122** is a true and accurate copy of Joseph Bilby, *A Revolution in Arms* 44 (2015).

126. Attached as **Exhibit 123** is a true and accurate copy of Nicholas J. Johnson, et al, *Firearms Law and the Second Amendment* 1148 (2d ed. 2018).

127. Attached as **Exhibit 124** is a true and accurate copy of Louis A. Garavaglia & Charles G. Woman, *Firearms of the American West* 1866-1894 (1985).

Respectfully submitted,

Dated: December 15, 2023

/s/ Bradley P. Lehman

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